

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED
JAMES BOHNI
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CARMEN CARTER

C-1-00-739

Plaintiff

Judge S. Arthur Spiegel

vs

THE E. W. SCRIPPS COMPANY

Defendant(s)

PLAINTIFF'S MOTION APPEALING
MAGISTRATE'S ORDER JAN. 8, 2004
MOTION TO PROCEED IN FORMA PAUPERIS

Comes now Plaintiff, Carmen Carter, before Senior Judge Spiegel requesting the Court accept and grant this Motion and the Affidavit in Support of Motion to Proceed In Forma Pauperis, which was denied in the Order filed by Magistrate Judge Hogan on January 8, 2004.

Because of Plaintiff's indigence, she seeks to In Forma Pauperis status not solely for the filing fee, but for any and all fees. While it is true the Plaintiff paid the full filing fee of \$255, the Court is unaware of the hardship involved in the matter. Early October was the last time the Plaintiff had an income and the change in Court fees (as of Nov. 1st), resulted in the Plaintiff siphoning moneys set aside for rent. The Plaintiff,

an applicant for Social Security Disability/SSI, remains indigent. However, the Court subsequently granted the Plaintiff In Forma Pauperis status in C-1-00-977 (exhibit 1).

As the Plaintiff is unemployed and symptoms of clinical depression have recently been exacerbated, she again petitions the District Court grant permission to proceed In Forma Pauperis pursuant to 28 USC §1915.

The Order also denied Plaintiff's request that the Court appoint counsel. According to the Order:

"To the extent such motion seeks the appointment of counsel on appeal...For the reasons stated in the Court's order granting summary judgment for the defendant (Doc. 77) plaintiff's claims lack merit."

However, the Plaintiff seeks counsel because she has had difficulty managing this and another case (C-1-00-977) as a result of clinical depression. Since the Plaintiff simultaneously filed a Motion to Vacate the aforementioned summary judgment, she again respectfully beseeches the Court reconsider this request. Because of Plaintiff's illness, the Court did not have the benefit of a response from the Plaintiff (to the Magistrate's Report and Recommendations) to conclude Plaintiff's "claims lack merit". The Plaintiff is prayerful the Court will vacate the judgment and grant her that opportunity.

Recognizing the appointment of counsel to civil litigants is a decision at the discretion of District Court -- the Plaintiff solicits the Court refer her case to the Volunteer Lawyers Project at the Legal Aid Society of Cincinnati. Unable to find an attorney willing to take employment law cases on contingency and financially unable to hire an attorney -- the Plaintiff has vainly attempted to manager her cases (including C-1-00-977) but is too ill to continue.

After speaking briefly with Krista Lohr at VLP and employees in the Office of the Clerk, U.S. District Court, the Plaintiff again files this motion requesting the Court to appoint counsel. Continuing without counsel risks the unfair advantage over the Plaintiff (in terms of fundamental unfairness as to due process) since the Defendant, The E. W. Scripps Company, a lucrative multi-media empire by contrast has a prestigious law firm (Baker & Hostetler) on retainer.

Respectfully submitted,



Carmen Carter
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(513) 751-5076

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served by ordinary U.S. mail January 27, 2004, upon David Holcombe, Baker & Hostetler, 312 Walnut Street, Cincinnati, OH 45202 -- attorney for the Defendant, The E. W. Scripps Company.



Carmen Carter